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Critical Study On Role Of The Indian Judiciary In Promoting Transparency and Accountability In Good Governance

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Critical Study On Role Of Indian Judiciary In Promoting Transparency and Accountability In Good Governance

In Indian democracy and governance, Indian judiciary play vital role over to protecting citizens fundamental rights and existence which emphasize to government and public administration to perform its duty responsibility towards nation and citizens, through their precedents and judgements. Indian judiciary have own approach through judicial activism within constitutional jurisdiction and writs which gives direction to government in scope fundamental rights, equality and directive principles and construct democracy and society. In modern era India need to develop moral, social and financial welfare and social reform in democracy.

1. Introduction

A notable feature of the Constitution is that it accords a dignified and crucial position to the judiciary. A well-ordered and well-regulated judicial machinery has been introduced in the country with the Supreme Court at the apex. The jurisdiction of the Supreme Court is very broad. It is the general court of appeal from the High Courts, the ultimate arbiter in all Constitutional matters and also enjoys an advisory jurisdiction. It can hear appeals from any court or tribunal in the country and can issue writs for enforcing the Fundamental Rights. There is thus a good deal of truth in the assertion that the Supreme Court of India has wider powers than the highest court in any other federation.

There exists a High Court in each State. The High Courts have wide jurisdiction and have been constituted into important instruments of justice. They are the general Court of appeal from the Courts subordinate to them. The most significant aspect of their jurisdiction is the power to issue writs. The writs jurisdiction of the High Courts is invoked very commonly to enforce Fundamental Rights and to control administrative process.

Although the Indian and the American Constitutions are both federal in nature the Indian judicial system differs from that of the U.S.A *inter alia,* in one very significant respect viz whereas the U.S.A. has a dual system of courts—a federal judiciary with the

Supreme Court at the top along with a separate and parallel judicial system in each State— India has a unified and not a dual system of courts. The Supreme Court, the High Courts and the Lower Courts constitute a single, unified, judiciary having jurisdiction over all cases arising under any law whether enacted by Parliament or a State Legislature. The judiciary in India has been assigned a significant role to play. It has to dispense justice not only between one person and another but also between the state and the citizens.

It interprets the Constitution and acts as its guardian by keeping all authorities— legislative executive administrative judicial and *quasi*-judicial— within bounds. The judiciary is entitled to scrutinize any governmental action in order to assess whether or not it conforms, with the Constitution and the valid laws made there under. The judiciary supervises the administrative process in the country and acts as the balance wheel of federalism by settling intergovernmental disputes.

It is also to be noted that a Parliament functioning under a written Constitution cannot claim for itself unlimited power to do what it likes. It has become fashionable for politicians in India to say that Indian Parliament is sovereign, meaning it can do whatever it desires. Such an assertion is not realistic. Parliament is sovereign to the extent that India is a sovereign country and that it is not subject to any external power. But Indian Parliament is not sovereign if it means that it has uncontrolled power to do what it likes. Since Parliament functions under a written Constitution, it has to observe the restrictions imposed on it by the Constitution. It can do what the Constitution permits it to do but cannot do what the Constitution prohibits. Similar is the position of the Executive. Thus, a written Constitution may seek to put formal restraints upon the abuse of power. This may be lacking in an unwritten Constitution.

Another significant feature of a written Constitution is the need of special procedure to amend it. This procedure is more complicated and rigorous than passing an ordinary law and is characterized as the constituent process as distinguished from ordinary legislative process. Thus, a written Constitution is often characterized as rigid as contrasted with an unwritten Constitution, which is called flexible, as it can be changed by an ordinary legislation It can be appreciated that if the written Constitution is not rigid, if it can be amended easily, and if it is not deemed to be the fundamental law of the country, then it ceases to effectively limit and restrain power

2. Objective of Studies

1.In the light of present problem the main object of study.

2. To discuss concept of separation process between judiciary/executive.

3. To examine working of judiciary and executive under the constitutional framework.

4. To discuss the areas of conflict between executive and judiciary.

5. To discuss recent judicial trends in this context.

6. To provide suggestions to resolve this conflict & tension and create harmony.

7. Parliamentary and Judiciary battel regarding sovereignty in democracy.

8. Political in governance and malfunctioning.

9. Influence Responsibility of government to protect social welfare and interest.

10. Judicial activism and Judicial review on constitutional amendment.

11. Discuss recent news Scenario and News.

3. Literature Review

In order to scan through the exiting literature the law relating to Parliamentary privileges as discussed by Indian and foreign authors coupled with the Constitutional provisions, Constituent Assembly debates, relevant case law and the articles on the subject have been have been analysed. Some of the works which deserve a special mention being the founding and path breaking works on the subject are discussed.

4. Statement of Problem

Current situation in Indian democracy there are lots of conflict arise in governance and uncontrolled corruption and white choler crime seen in government officials and political leaders which affect on social moral and integrity of individual. Judiciary being loose its dignity in eye of society its sever situation and it become worst if it is never being stope. So in this research find out causes and circumstances in which such problems occurs in

democracy and what is value of morality and belief in respect of constitution, nation and democracy and what changes make social reform in India.

5. Hypothesis

In this hypothesis certain question have been raised and through these questions the objective of the study is expected to be fulfilled.

1. Absolute power make absolute corrupt its sign of democracy collapsing.
2. Indian judiciary loosing its respect and belief in eye of society.
3. Political and political leaders influence on public administration and judiaiary
4. Judiciary is last resort for protecting citizens and constitution.

6. Chapter Scheme

1. Chapter -I Concept of judiciary in colonial to modern India.

2. Chapter -II Role of judiciary and judicial activism and judicial review.

3. Chapter -III Role of legislature state and union.

4. Chapter -IV Constitution and Social reform.

5. Chapter -V Governance its dimensions and scope.

7.Conclusion

The researcher has not only gone into the history of the topic of Judicial Activism vis-a-vis Judicial Overreach, but has also analyzed systematically the principles of separation

of powers as provided in the Indian Constitution. There has been growth of judicial intervention, on account of failure of legislature and executives, which has been seen by the legislature with jealous eye. Nevertheless the Hon'ble Supreme Court plays a vital role in Indian Democracy

8. Projected work plan

1. 1st Year plan
2. 2nd Year plan
3. 3rd Year plan

9.Webliography/ Bibliography

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